

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

KELVIN M. THOMAS, et al.

Plaintiff,

v.

FTS USA, LLC, et al.

Defendants.

Case No.: 3:13-cv-00825

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**DEFENDANTS' MOTION TO AMEND AND CERTIFY THIS COURT'S FEBRUARY  
24, 2015 ORDER FOR INTERLOCUTORY APPEAL PURSUANT TO SECTION 1292(B)**

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Defendants FTS USA, LLC ("FTS") and UniTek Global Services, Inc. ("UGS") (collectively, "Defendants"), by and through their undersigned counsel, hereby move this Honorable Court to amend and certify its February 24, 2015 Order denying Defendants' Motion for Summary Judgment for an interlocutory appellate review pursuant to 28 U.S.C. § 1292(b).

As is more fully set forth in the accompanying Memorandum of Law, which is incorporated herein by reference, this Court's denial of Defendants' Motion for Summary Judgment raises multiple controlling questions of law under the Fair Credit Reporting Act, 15 U.S.C. §§ 1681, *et seq.* ("FCRA"), as to which there is fertile ground for difference of opinion and for which an immediate appeal will advance the ultimate resolution of this matter. Accordingly, Defendants herein request that this Court amend its Order denying summary judgment and certify it for interlocutory appeal pursuant to 28 U.S.C. § 1292(b). Defendants request this Court certify the following questions of law:

1. Whether a background check procured by a prospective employer investigating job applicants based upon a preexisting, written company policy satisfies the Section 1681a(y)(1)(B)(ii) exemption to FCRA?
2. Whether a finding of willfulness under FCRA Section 1681n presents a question of law?
3. Whether FCRA Section 1681b(b)(2)'s "clear and conspicuous" standard for disclosure and authorization forms requires the usage of certain precise and explicit language?

WHEREFORE, Defendants respectfully request that this Court grant their Motion to Amend and Certify this Court's February 24, 2015 Order for Interlocutory Appeal Pursuant to Section 1292(b).

Dated: March 6, 2015

Respectfully submitted:

/s/

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